

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

LARRY DONACHY and BRUCE	)	
KINLEY, on behalf of themselves and	)	
others similarly situated,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 1:04-CV-245
	)	
MOTION CONTROL INDUSTRIES,	)	
DIVISION OF CARLISLE CORPORATION,	)	Judge Sean J. McLaughlin
RETIREMENT PLAN FOR BARGAINING	)	
UNIT EMPLOYEES OF MOTION CONTROL	)	
INDUSTRIES, DIVISION OF CARLISLE	)	
CORPORATION,	)	
	)	
Defendants.	)	

**PLAINTIFFS' BRIEF IN OPPOSITION TO  
DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Plaintiffs, Larry Donachy and Bruce Kinley, on behalf of themselves and others similarly situated, respectfully submit this Brief in Opposition to Defendants' Motion for Summary Judgment.

On November 4, 2005, Defendants timely filed a Motion for Summary Judgment in the above-captioned action, requesting that the Court enter summary judgment on all claims asserted by Plaintiffs. On November 21, 2005, Plaintiffs timely filed a Motion for Summary Judgment, a Brief in Support of Plaintiffs' Motion for Summary Judgment, and a Concise Statement of Material Facts in Support of Plaintiffs' Motion for Summary Judgment, requesting that the Court enter judgment in their favor on all claims asserted.

For all the reasons stated in Plaintiffs' Brief in Support of Plaintiffs' Motion for Summary Judgment, which Plaintiffs' incorporate by reference as if set forth in full, Larry

Donachy and Bruce Kinley, on behalf of themselves and others similarly situated, respectfully request that this Honorable Court deny Defendants' Motion for Summary Judgment.

Respectfully submitted,

JUBELIRER, PASS & INTRIERI, P.C.

BY: /s/ Jason Mettley  
Robert A. Eberle, Pa. I.D. #47359  
Jason Mettley, Pa. I.D. #81966  
219 Fort Pitt Boulevard  
Pittsburgh, PA 15222  
(412) 281-3850  
(412) 281-1985 (fax)  
rae@jpilaw.com  
jm@jpilaw.com  
Attorneys for Plaintiffs

### **CERTIFICATE OF SERVICE**

I hereby certify that on this 8<sup>th</sup> day of December 2005, a true and correct copy of the Brief in Opposition to Defendants' Motion for Summary Judgment was served on counsel for the Defendants identified as follows and in the manner indicated:

*Via electronic service through CM/ECF:*

Richard A. Lanzillo, Esquire  
Knox, McLaughlin, Gornall & Sennett  
120 W. Tenth Street  
Erie, PA 16501-1461  
[rlanzillo@kmgslaw.com](mailto:rlanzillo@kmgslaw.com)

/s/Jason Mettley